

REMARKS

Status of the Claims

Claims 1, 10, 13 – 17, and 48 – 54 are pending. Claims 2 – 9, 11 – 12, and 18 – 47 are cancelled.

Claim Amendments

Claims 1, 15, and 16 have been amended such that R¹, R², R³, and R⁴ represent hydrogen; X represents 1 to 5 same or different halo C₁-C₆ alkyl substituents; Y represents 1 to 5 cyano substituents; Z represents halo C₁-C₆ alkoxy; and W represents oxygen.

New claims 48 – 50 find support throughout the specification, for example on page 5, lines 13 – 31 of the specification.

New claims 51 and 52 find support on page 2, lines 11 – 15; page 4, lines 21 – 25; page 25, lines 25 – 28; and page 26, lines 20 – 21 of the specification.

New claims 53 and 54 find support on page 2, lines 11 – 15; page 4, lines 21 – 26; and page 26, lines 8 – 21 of the specification.

Claim Rejections

The Office action mailed August 22, 2007 rejected claims 1, 10, and 13 – 47, citing 35 U.S.C. §102(a), 35 U.S.C. §102(e), and US 6,342,518 to Treacy et al. (hereinafter, "Treacy"). The Board of Patent Appeals and Interferences reversed this rejection.

The Office action mailed August 22, 2007 rejected claims 1, 10, 13 – 47, citing 35 U.S.C §103(a), Stefferud, ed, INSECTS – The Year Book of Agriculture, p. 469 (1952) (hereinafter, "Stefferud"), and US 5,543,573 to Takagi et al (hereinafter, "Takagi"). The Examiner has acknowledged that "ant[s] and termite[s] are not specifically addressed" in the Takagi et al. reference. Therefore, Takagi does not provide an apparent reason for person having ordinary skill in the art to use the specific compounds for the control of the specific pests recited in the claims. Applicants also respectfully submit that

Column 63, lines 12 to 22 of Takagi suggest applying Takagi's insecticides to the inside of a house or ditches around a house. However, Takagi only mentions the application of the insecticides to these environments with a view to controlling sanitary insect pests injurious to men and beasts. Therefore, although termites and ants may appear in houses, they are not regarded as sanitary pests. For example, Stefferud considers flies, mosquitoes, fleas, lice, mites, and cockroaches as vectors, i.e., as able to carry diseases, but not termites and ants. Therefore, a skilled artisan had no apparent reason to combine Takagi with Stefferud's general description of household insects.

The Office action mailed August 22, 2007 rejected claims 1, 10, 13 – 47, citing 35 U.S.C §103(a), Treacy, Takagi, and Stefferud. As discussed above, no an apparent reason existed for person having ordinary skill in the art to use the specific compounds for the control of the specific pests recited in the claims.

Fee Authorization

The Director is hereby authorized to charge any deficiency in fees filed, asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account 14-1437. Please credit any excess fees to such account.

Conclusion

The present application is in condition for allowance, and applicants respectfully request favorable action. In order to facilitate the resolution of any questions, the Examiner is welcome to contact the undersigned by phone.

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Respectfully submitted,
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